

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

JEAN GAULDEN,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. 4:07-CV-1637 ERW
	)	
CITY OF DESLOGE, MISSOURI, et al.,	)	
	)	
Defendants.	)	

**PLAINTIFF’S SUPPLEMENT MEMORANDUM IN OPPOSITION  
TO DEFENDANTS’ MOTION FOR SUMMARY JUDGMENT**

COMES NOW Plaintiff Jean Gaulden (“Plaintiff”) and respectfully requests this Honorable Court to deny Defendant City of Desloge, Missouri, Defendant Brandon Scherffius, Defendant Nathan Bentley and Defendant Gary Gerstenschlager’s (collectively the “Defendants”) Motion for Summary Judgment and submits her Second Supplemental Additional Undisputed Material Facts and submits the following Supplemental Memorandum in Opposition:

**I. ARGUMENT**

In response to this Honorable Court’s Order on April 2, 2009, Plaintiff submits this Supplemental Memorandum in Opposition, particularly addressing Defendant Nathan Bentley’s joining the pending Motion for Summary Judgment of the other Defendants.

Plaintiff incorporates by reference her Memorandum in Opposition to Defendants’ Motion for Summary Judgment filed on February 23, 2009, Document #72. Particularly, section V(A) and V(D) of Plaintiff’s Memorandum in Opposition address Plaintiff’s pending claims against Defendant Bentley of Excessive Force and State Law Claims of Assault and Battery, respectively.

As Plaintiff, through her counsel, has now taken the deposition of Defendant Bentley, Plaintiff files concurrently herewith her Second Supplemental Additional Undisputed Material Facts.

## **II. CONCLUSION**

Based upon the foregoing Supplemental Memorandum in Opposition, Plaintiff's Second Supplemental Additional Undisputed Material Facts and Plaintiff's original Memorandum in Opposition, Plaintiff has established a *prima facie* case of excessive force and assault and battery claims against Defendant Bentley and this court should deny Defendants' Motion for Summary Judgment.

Respectfully submitted,

SCHOTTEL & ASSOCIATES, P.C.

BY: s/James W. Schottel, Jr.

James W. Schottel, Jr. #94480  
906 Olive St., PH  
St. Louis, Missouri 63101  
(314) 421-0350  
(314) 421-4060 facsimile  
jwsj@schotteljustice.com

Attorney for Plaintiff  
Jean Gaulden

**CERTIFICATE OF SERVICE**

I hereby certify that on April 7, 2009, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which sent notification of such filing to the following:

Mark H. Zoole  
zoole@sbcglobal.net

Attorney for Defendants  
City of Desloge, Missouri  
Brandon Scherffius  
Gary Gerstenschlager

I further certify that a copy of the foregoing was mailed first-class, postage prepaid to the following this 7<sup>th</sup> day of April, 2009.

Nathan Bentley  
9294 U.S. Highway 23 South  
Pikeville, KY 41501

*Pro se* Defendant

/s/ James W. Schottel, Jr.